

REMARKS

The Office action dated August 17, 2006, has been received and carefully reviewed.

By the above amendments, independent claims 1 and 59 have been amended. Claims 2-58, 61, and 63-68 have been cancelled without prejudice or disclaimer. Applicants reserve the right to pursue any or all of claims 2-58, 61, and 63-68 in a divisional application. New claims 69-91 have been added, and variously depend from independent claims 1 and 59. Thus, claims 1, 59-60, 62, 69-91 are currently pending.

Statement of the Substance of the Interview

Applicants' representatives would like to thank the Examiner for taking the time to discuss this case in a personal Interview on January 12, 2007.

During the Interview, Applicants' representatives and the Examiner discussed the structure and operation of two prior art references in detail: U.S. Patent No. 5,417,337 to Robbins, III ("Robbins"), and U.S. Patent No. 5,439,128 to Fishman ("Fishman"). As Examiner noted in the Interview Summary dated January 12, 2007 ("Interview Summary"), Applicants' Amendment was discussed as overcoming all rejections of the pending claims under 35 U.S.C. § 102(b) as anticipated by Robbins. Applicants' representatives and the

Examiner further discussed Fishman, as the Examiner inquired into whether Fishman would be a suitable reference to combine with Robbins to form prospective obviousness rejections under 35 U.S.C. § 103. Applicants' representatives explained the differences and drawbacks of Fishman as compared to the claimed invention, as pointed out, *inter alia*, at pages 1-2 of the present application. Applicants' representatives respectfully submit that the Examiner agreed that Fishman would not be a suitable reference under 35 U.S.C. §§ 102, 103, as applied toward the claimed invention.

As reflected in the interview summary, the outwardly spaced concentric relationship of the container in its collapsed position as set forth in claim 1 is an important limitation which sets the invention apart from much of the prior art. This relationship referred to in the interview summary is embodied in the following language of Claim 1:

said top ring surrounding said base in outwardly spaced substantially concentric relation thereto, said wall comprising multiple upwardly extending peripherally continuous sections which, . . . in the collapsed position of said container, being folded on each other and concentrically received generally between the base and the top ring with the sections encircling the base and in turn being encircled by said top ring

This same concentric relationship is now contained in amended claim 59. This concentric relationship is shown, *inter alia*,

in Figures 2, 4, 6, 6A, 7, and 10 of the present application, wherein the described collapsible container - when in the collapsed condition - has a top ring that is outwardly spaced from and in "substantially concentric relation" to the base and the wall sections are "folded on each other and concentrically received generally between the base and the top ring." (See claim 1 of the present application). In the resulting arrangement, the wall sections are "laterally aligned" and share generally the same horizontal plane. (See page 12 of the present application). In the embodiment shown in the application, the base and top ring have vertically disposed sections that align with and form part of the innermost and outermost wall sections and accordingly also share generally the same horizontal plane with the folded wall sections. It was applicants' understanding at the interview that the alignment of the folded wall sections of the container in generally the same horizontal plane is what is meant by the sections being "concentrically received generally between the base and the top ring" and this is the distinction relative to the prior art being referenced in the interview summary. Accordingly, although the interview summary refers to the surrounding relationship as meaning that the base and top ring would share generally the same horizontal plane, it is the wall sections which (as shown in the figures of the

patent) must share generally the same plane while the base and the top ring merely encircle and are concentric therewith, but do not necessarily share generally the same horizontal plane as the wall sections.

Claims 1 and 59 now both contain language requiring this alignment of the wall sections.

Rejections under 35 U.S.C. § 102(b)

As a result of the Office Action, claims 1-68 are rejected under 35 U.S.C. 102(b) as being anticipated by Robbins. This reference has been carefully reviewed, and as discussed during the personal interview and indicated in the Interview Summary, it is not believed to show or suggest Applicants' invention as now claimed. Reconsideration and allowance of the pending claims, and examination and allowance of the newly added claims, is therefore respectfully requested in view of the following remarks.

According to MPEP 2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Claim 1 has been amended and it now recites ". . . wherein the container includes flexure zones joining adjacent sections, the adjacent sections being of limited flexibility relative to the flexure zones, and wherein each

flexure zone is independently activatable for movement between a first, open natural state in which adjacent sections are unfolded, and a second, closed natural state in which the respective adjacent sections are folded; and wherein the container is adjustable to a fixed, partially expanded position between said expanded position and said collapsed position." Robbins describes a container (10) consisting of an upper portion (18, 80, 86, 100), an intermediate portion (20, 82, 98, 110), and a lower portion (22, 84, 96, 108). (See Robbins at Figures 3, 8, 10, 12). In every embodiment, container (10) has only these three portions - an upper portion, an intermediate portion, and a lower portion. Further, in every embodiment, container (10) permits only two conditions: *fully* expanded (as shown in Figures 1-3, 8, 10, and 12), or *fully* collapsed (as shown in Figures 4, 9, 11, and 13). Moreover, the dimensions of the upper, intermediate, and lower portions are selected to "accommodate the telescoping action without excessive friction which would otherwise tend to inhibit the movement between extended and collapsed positions, and vice versa." (*Id.* at 3:42-48).

Robbins further states that friction resistance during a change of positions is thereby "minimized". (See *id.* at 2:17-25; 6:56-62). Thus, the container (10) of Robbins is designed

to be fully collapsed or fully expanded, without incurring "excessive friction" between these two states.

The expandability and collapsibility of container (10) in Robbins is made possible by having a single intermediate portion of a lesser thickness than the upper and lower portions to "reverse fold" between the open and the collapsed positions. (See *id.* at 1:60-2;3; 3:38-42; 4:7-18; 6:14-20). That is to say, the intermediate portion folds downward when the container is collapsed and when the container is expanded, the intermediate portion unfolds and reverses its position to be directed upward. (Compare, e.g., Figure 3 with Figure 4). Accordingly, the container has only a single expanded and a single collapsed position. In addition, because of the three-part construction of the container of Robbins, the compactness of the collapsed container is directly dependent on the volume of the expanded container (that is, the depth and diameter of the container in its collapsed position is limited by the desired volume of the expanded container as the three portions of the container in Robbins must be made taller or the diameter must be increased if the container is to have an increased volume in the expanded position).

Accordingly, as Robbins teaches a container which permits only two conditions (namely a fully expanded position and a fully collapsed position), there is no suggestion, motivation,

or teaching in Robbins of being able to adjust the container to a partially expanded position, between the fully expanded position and collapsed position. Indeed, it is submitted that the container (10) in Robbins could not in fact ever assume a partially expanded position which is "fixed" (in the sense of amended claim 1) because Robbins specifically teaches design of the container (10) so as to reduce "excessive friction" as the container is moved from a collapsed to a full expanded position, as noted above. As such, the container (10) of Robbins is either fully expanded or fully collapsed, and while changing positions from one to the other, the container (10) is designed to minimize friction, so that no hypothetical partially expanded position would in any event be "fixed" as recited in amended claim 1.

The container recited in currently amended independent claim 1 is able to adopt a fully expanded condition, a partially expanded condition, and a fully collapsed condition, as a result of the specific structural features recited in currently amended claim 1, including the additional limitation that each flexure zone is independently activatable for movement between a first, open natural state, in which respective adjacent sections are unfolded, and a second, closed natural state in which the respective adjacent sections

are folded. It is therefore submitted that the subject matter of currently amended claim 1 is patentably novel over Robbins.

Claim 59, which has been amended and is fully supported by, *inter alia*, claim 1 of the present application, now recites ". . . a second section, and a third section, wherein the first section is adjacent the second section and wherein the second section is adjacent the third section a second flexure zone disposed between the second section and the third section, and a third flexure zone disposed between the first section and the base . . . with said top ring surrounding said base in outwardly spaced substantially concentric relation thereto with the sections being folded and concentrically received generally between the base and the top ring with the sections encircling the base and in turn being encircled by said top ring . . . wherein said container is stable in each of said positions and wherein positive force is required to adjust the container from the partially expanded position to the expanded position, and to adjust the container from the partially expanded position to the collapsed position." As discussed above, the container (10) described in Robbins cannot assume a stable "partially expanded position" wherein "positive force" is required to adjust the container to or from the "partially expanded position." Either the Robbins container (10) is fully expanded or fully

collapsed, and while changing positions from one to the other, the container (10) is designed to minimize friction. This is at odds with the container of claim 59, which can assume a stable "partially expanded condition", wherein "positive action" is necessary to change the container to or from that condition.

The ability of the claimed container to have this stable "partially expanded condition" is made possible by the flexure zones which can be independently manipulated to place the wall sections, and the container itself, in a variety of conditions. (See Figures 7-9 of the present application). Moreover, the multiple wall sections of the presently claimed container, unlike those of the container in Robbins do not all "reverse fold", but rather, every other section remains upright and does not change its direction when the container adjusts from a collapsed to a more expanded condition. In addition, the presently claimed container can be made more compact than that in Robbins because of the multiple wall sections, which allow a larger volume expanded container with a relatively more compact collapsed container.

As Robbins fails to disclose each and every element of claims 1 and 59, the rejection of claims 1 and 59 should be withdrawn. Moreover, as all other claims variously depend

from independent claims 1 or 59, the rejections of these claims should be withdrawn as well, for at least this reason.

New Claims 69-91

Newly added claims 69-91 variously depend from independent claims 1 or 59. Applicants respectfully submit that the subject matter recited and claimed in newly added claims 69, 70, 72-79, 81-83, and 86-91 substantially corresponds to the subject matter recited and claimed in originally filed claims 2-58, 61, and 63-68. Although newly added claims 71, 80, 81, and 84 do not specifically correspond to any one of canceled claims 2-58, 61, and 63-68, it is believed that the subject matter recited and claimed in claims 71, 80, 81, and 84 is within metes and bounds of the originally filed claims and, therefore, would not require further searching. Applicants submit that each of new claims 69-91 is fully supported by the specification as filed, as detailed below.

Support for new claim 69 can be found, *inter alia*, at pages 4 and 10, and Figs. 5-6A and 5A of the specification as filed.

Support for new claim 70 can be found, *inter alia*, at pages 4-5, and Figs. 5-6A of the specification as filed.

Support for new claims 71-72 can be found, *inter alia*, at page 9, and Figs. 5 and 5A of the specification as filed.

Support for new claim 73 can be found, *inter alia*, at pages 8, 13 and 14, and Figs. 1 et seq. of the specification as filed.

Support for new claim 74 can be found, *inter alia*, at pages 4 and 12-13, and Figs. 2, 4, 7, and 10 of the specification as filed.

Support for new claim 75 can be found, *inter alia*, at page 14, and Figs. 4, 6, 6A, 7, and 10 of the specification as filed.

Support for new claim 76 can be found, *inter alia*, at page 14, and Figs. 4, 6, 6A, 7 and 10 of the specification as filed.

Support for new claim 77 can be found, *inter alia*, at pages 8-9, and Figs. 3, 4, 5, 6, and 7-10 of the specification as filed.

Support for new claim 78 can be found, *inter alia*, at pages 14-16 of the specification as filed.

Support for new claim 79 can be found, *inter alia*, at page 2, and Figs. 1 et seq. of the specification as filed.

Support for new claim 80 can be found, *inter alia*, at page 10 and Figs. 5 and 5A of the specification as filed.

Support for new claims 81-82 can be found, *inter alia*, at Figs. 4 and 5 of the specification as filed.

Support for new claim 83 can be found, *inter alia*, at pages 4 and 10 and Figs. 5-6A and 5A of the specification as filed.

Support for new claims 84-85 can be found, *inter alia*, at page 9, and Figs. 5-6A of the specification as filed.

Support for new claim 86 can be found, *inter alia*, at pages 8, 13, and 14, and Fig. 1 et seq. of the specification as filed.

Support for new claim 87 can be found, *inter alia*, at pages 4, 12, and 13, and Figs. 2, 4, 7, and 10 of the specification as filed.

Support for new claim 88 can be found, *inter alia*, at page 14, and Figs. 4, 6, 6A, 7, and 10 of the specification as filed.

Support for new claim 89 can be found, *inter alia*, at pages 8-9, and Figs. 3, 4, 5, 6, and 7-10 of the specification as filed.

Support for new claim 90 can be found, *inter alia*, at pages 14-16 of the specification as filed.

Support for new claim 91 can be found, *inter alia*, at page 2, and Figs. 1 et seq. of the specification as filed.

Each issue raised in the Office action dated August 17, 2007, has been addressed and it is believed that claims 1, 59-60, 62, and 69-91 are in condition for allowance. Wherefore, Applicants respectfully request a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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